

**MINTZ LEVIN
COHN FERRIS
GLOVSKY AND
POPEO PC**

*Boston
Washington
Reston
New York
Stamford
Los Angeles
London*

*One Financial Center
Boston, Massachusetts 02111
617 542 6000
617 542 2241 fax
www.mintz.com*

Fax Cover Sheet

FAX RECEIVED

JUL 01 2005

OFFICE OF PETITIONS
DATE: July 1, 2005

FROM: Naomi S. Biswas

*Direct Dial 617 348 4401
nbiswas@mintz.com*

To:

NAME	COMPANY	BUSINESS #	FAX #
John Gillan	Petitions Office	571-272-3214	571-273-0025

MESSAGE:

U.S.S.N. 09/992,840

Title: "Treatment for Inflammatory Bowel Disease Using Growth Factors"

Date Filed: November 6, 2001

Inventor: Jeffers, et al.

Our File No. 15966-557A (Cura 57A0)

Pursuant to our telephone call a few minutes ago, enclosed are the papers filed originally on October 8, 2004 relating to Rule 47 Petition for Application 09/992,840.

We are sending a total of 16 pages, including this cover sheet.

Please call us at 617.348.4966, if you experience any problems.

STATEMENT OF CONFIDENTIALITY

THE INFORMATION CONTAINED IN THIS FAX IS INTENDED FOR THE EXCLUSIVE USE OF THE ADDRESSEE AND MAY CONTAIN CONFIDENTIAL OR PRIVILEGED INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY FORM OR DISSEMINATION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF THIS FAX WAS SENT IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY PHONE.

Express Mail Label No.: EV3921 73US
Date of Deposit: October 8, 2004

Attorney Docket No. 15966-557A (Cura 57A)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Jeffers, et al.
SERIAL NUMBER : 09/992,840
FILING DATE : November 6, 2001
FOR : TREATMENT OF INFLAMMATORY BOWEL DISEASE USING GROWTH FACTORS

EXAMINER : Not Yet Assigned
ART UNIT : Not Yet Assigned

FAX RECEIVED

JUL 01 2005

OFFICE OF PETITIONS

Mail Stop: Licensing & Review
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL LETTER

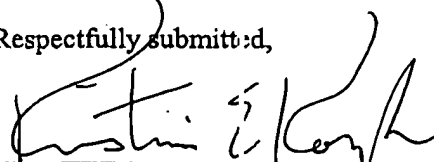
Transmitted herewith for filing in the above-referenced patent application are the following documents:

1. Petition For Filing Patent Application When Inventors Refuse to Execute under 37 C.F.R. § 1.47(a) (2 pgs.)
2. Check No. 19449 in the amount of \$130.00 to cover the Petition fee;
3. Declaration of Nicole Carlucci in Support of C.F.R. § 1.47(a) filing for Elma Fernandes (2 pgs.);
 - a. Letter of September 17, 2004 to Elma Fernandes (1 pg.);
 - b. Copy of the PRIORITY MAIL RECEIPT to Fernandes (1 pg.);
 - c. Employee agreement for Elma Fernandes (5 pgs.); and
4. Return postcard.

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at 617-542-6000, Boston, Massachusetts.

The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 15966-557A (CURA 57A). A duplicate copy of this transmittal letter is enclosed herewith.

Respectfully submitted,



Dated: October 8, 2004

Ivor R. Elrifi, Reg. No. 39,529
Kristin E. Konzak, Reg. No. 44,848
Attorneys for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 3062

EV392157773US

OFFICE OF PETITIONS

Customer Copy
Label T-F June 2002

UNITED STATES POSTAL SERVICE® Post Office To Addressee

EV 392157773 US

ORIGIN (POSTAL USE ONLY)				DELIVERY (POSTAL USE ONLY)			
POZIP Code 80205		Day of Delivery 10/2/01		Flat Rate Envelope <input type="checkbox"/>		Time <input type="checkbox"/> AM <input type="checkbox"/> PM	
Date 10/8/01		Day 10/8/01		Postage \$ 1.36		Employee Signature [Signature]	
Time In 7:58 PM		Military <input checked="" type="checkbox"/> 1st Day <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day		Return Receipt Fee		Employee Signature [Signature]	
Weight 4.00 lbs.		Int'l Alpha Country Code		COD Fee		Employee Signature [Signature]	
No Delivery <input type="checkbox"/> Registered <input type="checkbox"/> Insured		Accepting Clerk Initials A.S.		Insurance Fee		Employee Signature [Signature]	
Total Postage & Fees \$ 1.36							

CUSTOMER USE ONLY		FROM: (PLEASE PRINT)		TO: (PLEASE PRINT)	
EXPRESS MAIL SERVICE® FIRST CLASS PERMIT NO. 1000 BOSTON, MA 02111-0001		MINTZ LEVIN COHN FERRIS GLOUSKY & POPE PC 4 FINANCIAL CTR BOSTON MA 02111-2021		MAIL STOP: LICENSING AND REVIEW Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	
EXPENSE MAIL CORPORATE ACCT. NO. 15966-557A (Cura 57) IRE/KEK		617 542 5000		PHONE	

PRESS HARD. You are making 3 copies. FOR PICKUP OR TRACKING CALL 1-800-222-1811 WWW.USPS.COM

FAX RECEIVED

JUL 01 2005

OFFICE OF PETITIONS

Mailing Label
Label 1-H June 2002

UNITED STATES POSTAL SERVICE® Post Office To Addressee

DELIVERY (POSTAL USE ONLY)		Employee Signature	
Delivery Attempt	Time		
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM		
Delivery Attempt	Time		
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM		
Delivery Date	Time		
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM		

Federal Agency Acct. No. or Postal Service Acct. No.	
TO: (PLEASE PRINT)	PHONE
MAIL STOP: LICENSING AND REVIEW Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313.1450	



EV 39215773 US

ORIGIN (POSTAL USE ONLY)		Flat Rate Envelope	
PO ZIP Code	Day of Delivery	<input type="checkbox"/> Next <input type="checkbox"/> Second	Postage
Date In	Mo. Day Year	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	\$
Time In	Military	<input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight	Int'l Alpha Country Code	COD Fee	Insurance Fee
No Delivery	Acceptance Clerk Initials	Total Postage & Fees	
Weekend <input type="checkbox"/> Holiday <input type="checkbox"/>		\$	

FROM: (PLEASE PRINT)		PHONE
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO PC 1 FINANCIAL CTR BOSTON MA 02111-2621		617 542 6000
Express Mail Corporate Acct. No. 15966-557A (Guia 57) IRE/KEK		

PRESS HARD.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 WWW.USPS.COM

5041 2000 F:02 I:

FAX RECEIVED
JUL 01 2005
OFFICE OF PETITIONS

Serial No. 09/992,840 File No. 15966-557A(Cura57A) IRE/KEK
Title: Treatment of Inflammatory Bowel Disease Using Growth Factors
Application of Jeffers, et al. Date: Nov. 6, 2001

The U.S. PTO Mail Room acknowledges receipt of the following on the date stated hereon:

- | | |
|---|---|
| <input type="checkbox"/> Req. for CPA under 37 CFR 1.53(d) | <input type="checkbox"/> Provisional Application Cover Sheet |
| <input type="checkbox"/> Change of Attorney's Address | <input type="checkbox"/> Int. Discl. Statement, PTO Form 1449 |
| <input type="checkbox"/> New Power of Attorney | <input type="checkbox"/> References Cited |
| <input type="checkbox"/> Patent Application | <input type="checkbox"/> Copy of Notice to File Missing Parts |
| <input type="checkbox"/> Non-provisional <input type="checkbox"/> Provisional | <input type="checkbox"/> Amendment/Response |
| Incl. _____ pages, (_____ pgs) Specification, | <input type="checkbox"/> Petition for Ext. of Time (x2) |
| (_____ pgs) Abstract, (_____ pgs) Claims (_____ # claims) | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Design Patent Application | <input type="checkbox"/> Letter to Official Draftsperson |
| <input type="checkbox"/> Declaration(s) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Drawings _____ sheet(s) (FIGS. _____ - _____) | <input type="checkbox"/> Brief (x3) |
| <input type="checkbox"/> Formal <input type="checkbox"/> Informal | <input checked="" type="checkbox"/> Check for \$130.00 Check # 19449 |
| <input type="checkbox"/> Verified Statement claiming small entity status | <input checked="" type="checkbox"/> Transmittal Letter (x2) |
| <input type="checkbox"/> Assignment and Cover Sheet | <input type="checkbox"/> Cert. of Mailing under 37 CFR 1.8(a) |
| | <input checked="" type="checkbox"/> Express Mail Label No. <u>EV392157773US</u> |

☒ Other Petition for Filing Patent Application When Inventors Refuse to Execute under 37CFR Sec.1.47(a) (2pgs)

- ☒ Declaration of N. Carlucci in support of 37CFR 1.47 Filing (2pgs)
☒ Letter dated 9/17/04 from CuraGen to E. Fernandes
☒ Copy of PRIORITY MAIL RECEIPT
☒ Employee Agreement for Elma Fernandes (5pgs)

Date: October 8, 2004

Express Mail No. EV392157773 US
Date of Deposit: October 8, 2004
MINTZ LEVIN COHN FERRIS GLOVSKY
& POPEO PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

194

PAY
TO THE
ORDER OF

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

DATE Oct 8 2004

\$ 130.00

DOLLARS



Small Business Services
Boston, MA

FOR

15966-557A(Cura57A) Rule 47 Petition

DO NOT EXCEED OVER \$10,000.00

⑈019449⑈ ⑆011000138⑆ 00545 85025⑈

Express Mail Label No.: EV392-773 US
Date of Deposit: October 8, 2004

Attorney Docket No. 15966-557A (Cura 57A)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Jeffers, et al.
SERIAL NUMBER : 09/992,840
FILING DATE : November 6, 2001
FOR : TREATMENT OF INFLAMMATORY BOWEL DISEASE USING GROWTH FACTORS

EXAMINER : Not Yet Assigned
ART UNIT : Not Yet Assigned

FAX RECEIVED

Mail Stop: Licensing & Review
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

JUL 01 2005

OFFICE OF PETITIONS

**PETITION FOR FILING PATENT APPLICATION
WHEN AN INVENTORS REFUSE TO EXECUTE UNDER 37 C.F.R. § 1.47(a)**

1. Further to the Decision on Petition filed June 22, 2004, and pursuant to 35 U.S.C. § 116 and 37 C.F.R. § 1.47(a), the undersigned hereby petitions to allow each of the signing inventors to make this application on his or her behalf well as on behalf of the non-signing inventor Elma Fernandes. Applicant has attached a Declaration in Support of 37 C.F.R. § 1.47 filing ("Carlucci Declaration") signed by Nicole Carlucci, an Administrative Assistant of Intellectual Property of CuraGen Corporation for U.S.S.N. 09/992,840 filed November 6, 2001. Applicants also enclose the fee set forth in 37 C.F.R. § 1.17(h).
2. The inventors of the invention claimed in the above-referenced application are Michael Jeffers, Richard Shimkets, Sudhirdas Prayaga, Ferenc Boldog, Meijia Yang, Catherine Burgess, Elma Fernandes, Beth Rittman, Juliette Shimkets, William LaRochelle, and Henri Lichenstein. Co-inventor Elma Fernandes refused to execute the Combined Declaration and Power of Attorney for this application. As required, Applicants enclose herewith copies of counterparts of the Combined Declaration and Power of Attorney form executed by the other co-inventors.
3. CuraGen Corporation employed Elma Fernandes (as well as other co-inventors), at the time the invention claimed in the present application, U.S.S.N. 09/992,840, which claims priority to USSN 60/246,206, filed 6 November 2000, was conceived and reduced to practice. A copy of a CuraGen Corporation employment agreements executed by Elma Fernandes on November 2, 1998, is attached to this petition. Under this agreement Elma Fernandes is obligated to execute any and all applications for domestic and foreign patents covering inventions conceived, made, or discovered during the course of their employment.

APPLICANTS: Jeffers, et al.
U.S.S.N.: 09/992,840

4. The accompanying Carlucci Declaration in Support of 37 C.F.R. § 1.47 filing sets forth the pertinent facts demonstrating that CuraGen Corporation has been unable to locate Elma Fernandes after multiple attempts, and therefore, she is unavailable to sign any patent applications for her former employer, CuraGen Corporation. The Exhibits to the declaration include correspondence between CuraGen Corporation and Elma Fernandes about this application (U.S.S.N. 09/992,840 filed November 6, 2001) and the USPS Priority Mail Label of the final attempt September 28, 2004 to deliver the package to Fernandes.

5. Thus, based upon the record of correspondence to date set forth in the Carlucci Declaration, Elma Fernandes is unavailable to execute the Combined Declaration and Power of Attorney and to make application as joint inventors of the present application, after multiple reasonable efforts to locate her.

6. Under the requirements set forth under 37 C.F.R. § 1.47, the last address of Elma Fernandes known to the undersigned is:

P.O. Box 8120
Bridgewater, NJ 08807

7. Based upon the pertinent facts presented herein and in the Declaration, the undersigned hereby respectfully requests that application for the above-identified invention be made by each of the signing co-inventors on his or her behalf and on the behalf of the nonsigning co-inventor Elma Fernandes. To that end, the undersigned, on behalf of the signing co-inventors, respectfully requests consideration and grant of this petition for filing the patent application by less than all of the co-inventors pursuant to 37 C.F.R. § 1.47(a).

Should the Commissioner have any questions concerning this petition, he is invited to telephone the undersigned at the number provided.

Respectfully submitted,

Dated: October 8, 2004

Ivor R. Elrifi, Reg. No. 39,529
Kristin E. Konzak, Reg. No. 44,848
Attorneys for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623